

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JAMES A. HARRIS,

Plaintiff,

v.

GULF INSURANCE COMPANY,

Defendant.

MICHAEL J. STONE, Plaintiff/Intervenor

Case No.: C 01-4906 CW

**ORDER GRANTING THE PARTIES
JOINT APPLICATION FOR
JUDICIAL RESOLUTION OF
COUNTS I AND II OF
PLAINTIFFS' FIRST AMENDED
COMPLAINT AND ENTERING
JUDGMENT ON COUNTS I AND II
OF PLAINTIFFS' FIRST
AMENDED COMPLAINT UNDER
FEDERAL RULE OF CIVIL
PROCEDURE 54(b)**

The parties to this litigation are Plaintiff James A. Harris, Intervenor Michael J. Stone (together, the "Insureds"), and defendant Gulf Insurance Company ("Gulf"). The Parties filed their Joint Application for Judicial Resolution of Counts I and II of Plaintiffs' First Amended Complaint and Certification Under Federal Rule of Civil Procedure 54(b) dated September __, 2005 (the "Application"). Having considered the Application, the records of this Court, and the interests of judicial economy of both this Court and the

1 Appellate Court, the Court now enters judgment as follows:

2 Based upon the stipulated facts and evidence set forth in the Application, the records
3 of this Court, and the tests and reasoning set forth in the Court's Order of December 12,
4 2003, granting in part and denying in part Plaintiffs' Motion for Partial Summary Judgment
5 and Denying Defendant's Motion for Summary Judgment [*See Harris v. Gulf Insurance*
6 *Co.*, 297 F. Supp. 2d 1220 (N.D. Cal. 2003)(hereafter, the "Order")], the Court hereby finds
7 that Plaintiffs are entitled to judgment against Gulf on Counts I and II of the First Amended
8 Complaint.

9 In addition, the Court hereby finds that certification of such judgment will not result
10 in unnecessary appellate review as the judgment granted herein adjudicates issues which are
11 separate, distinct, and independent of other claims presented in the action, review of the
12 adjudicated claims will not be mooted by future developments in the action as the action
13 will be stayed pending resolution of the appeal, and the appellate court will not be required
14 to decide the same issues more than once even if there were multiple appeals. To the
15 contrary, the Court finds that there is no just reason for delay of entry of a final judgment
16 with respect to Counts I and II because resolution of the issue presented by the appeal, at
17 this stage, will conserve the judicial resources of both the trial and appellate courts,
18 contribute to the efficient administration of justice by avoiding a potentially unnecessary
19 trial, and facilitate the settlement of the remaining claims. According, the Court hereby
20 directs the entry of judgment against Gulf on Counts I and II pursuant to Rule 54(b).

21
22 Dated: 9/28/05

23 _____
United States District Judge

